

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday December 5, 2013**

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

**Committee Members Present**

Councilor Peter Lachapelle, Chair

Councilor Elaine Lauterborn, Vice Chair

Councilor Ray Varney

Councilor Sandra Keans

Councilor James Gray

**Others Present**

Peter Cutrer, Deputy Fire Chief

Sheldon Perkins, Code Enforcement

Officer

Neal Bilodeau, State Ranger

Mac Kittredge, Resident

Jackie Raab, Resident

Peter Nourse, Commissioner of Public  
Works

**MINUTES**

**1. Call to Order**

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. All committee members were present.

**2. Public Input**

Councilor Lachapelle explained that the public could speak during the discussion of the item which they have concerns with. He asked if anyone would like to address the Codes and Ordinances Committee at this time. There was no discussion at that time.

Councilor Lachapelle notified the Codes and Ordinances Committee that there will not be a meeting in January due to possible re-appointments that will have not been made by the January 2, 2014 meeting date.

**3. Approval of the Codes and Ordinances Committee Minutes**

**• October 3, 2013**

Councilor Lauterborn **MOVED** to **APPROVE** the Committee minutes of October 3, 2013. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Complaints on Illegal Burns, Bonfires, Nuisance Smoke**

Peter Cutrer, Deputy Fire Marshal, gave the Codes and Ordinances Committee an overview of the different permit classifications, which fall under State law. Mr. Cutrer had

introduced Neal Bilodeau, State Ranger, who would also be able to answer questions for them.

Mr. Cutrer understood why there are complaints regarding smoke and odor, especially in the summer when windows are open. He cited it is health issues such as asthma, so when they meet with the individuals that obtain these permits they explain the law. He did explain that nuisance smoke was omitted from the State law and per State law they are not allowed to extinguish a fire due to smoke.

There are three fire permit classifications. Class 1 and Class 2 are seasonal whereas Class 3 is a one time burn permit, such as a bonfire. Mr. Cutrer cited a recent complaint which the Fire Department received, which he believed to be the same complaint that Councilor Lachapelle received. Mr. Cutrer explained he did inspect the property and found several issues with the fire pit, such as the distance from structures and the items that were being burned in the fire pit, such as garbage. It was his impression that the fire pit had been moved from the time they were issued the permit. Councilor Keans asked what items can be burned. Mr. Cutrer and Mr. Bilodeau said clean, untreated wood less than five inches in diameter. He stated that the resident was not in the confines of the permit so their permit was revoked and at this point the issue for the resident that made the complaint is resolved and Mr. Cutrer received a thank you letter from the resident. Councilor Lauterborn asked if the permit was revoked for the season. Mr. Cutrer stated that it was revoked for the season; however, the resident can correct the problems and reapply. The inspection would be under tighter restrictions. He went on to explain that if the resident did not comply again they would ultimately be banned from getting a permit.

Councilor Varney asked how residents would know the criteria such as the boundaries for the permit. Mr. Cutrer stated that it is explained on the back of the permit and it is the State law.

Mr. Bilodeau, State Ranger, explained that Class 1 would be a small contained fire pit less than two feet in diameter, such as a Chiminea. This fire pit would have to be twenty-five feet from structures. Class 2 he referred to as a ring of fire that is four feet in diameter and needs to be fifty feet from structures. Class 3 he referred to such burns as bonfires and brush that is being burned on the ground, which is greater than four feet in diameter, also needs to be fifty feet from structure.

Councilor Varney stated that some communities ban outside burning altogether and a State representative had commented that Rochester has more of these burn permits than anywhere else in the State. He asked if they could make changes to the distances which are allowed to burn. Mr. Cutrer understood and explained that there are solutions and the complaints need to be looked at on a case by case basis. He cited that if it is a severe issue a resident can fill out a DES complaint at the Rochester Fire Department and DES would take action. He explained this further and unfortunately laws do get broken.

Councilor Keans wanted to know the difference between a campfire and a fire pit. Mr. Cutrer explained that the fire pit is enclosed. The committee discussed this further with Mr. Bilodeau and also discussed portable manufactured fireplaces that burn wood.

Councilor Varney asked that the fire officials be educated on this topic and in the spring when these types of permits start to get issued advertize this topic to get the residents educated as well. Mr. Cutrer agreed that a public service announcement would be great. Councilor Lachapelle stated that they could use the government channel 26.

Councilor Lachapelle stated that this issue was resolved and is dead in committee.

## **5. Enforcement of Water Leaks at Mobile Home Parks**

Peter Nourse, Commissioner of Public Works, addressed the Codes and Ordinances Committee regarding water leaks and abatements. He explained that Public Works looked at coming up with some ideas to address this issue and he wanted to come to the Codes and Ordinances Committee to discuss them

Mr. Nourse explained that a mobile home park that has a leak will go to the UAB for abatement on the sewer. He explained that there needs to be an incentive to get these leaks repaired because it is a waste of water. It costs the City money and they need to find a way to enforce these repairs. He explained that in October the City Manager stated he does not want these abatements. He also commented that it is hard charge for sewer when it is not going into the sewer.

Mr. Nourse said that this would not just be for mobile home parks in the City, but all water leaks. The Codes and Ordinances Committee reviewed 17.9 “meters” and 17.26 “violations” pertaining to the water ordinances, and Mr. Nourse would like them improved and possibly have a shut-off for non-compliance. He went on to explain that when they see a spike in usage for anyone in the City they send out a letter, but there is no enforcement. If the leak is on the resident’s side it should be explicit in the ordinance that they get shut off if they do not comply with making the repairs.

Mr. Nourse gave the committee an example of a situation at Woodland Green where a lot of water was wasted and they incurred sewer bills as a result. The City sent several letters, but now it is in litigation. Had it been written in the ordinance that there was a penalty, this situation could have turned out differently. A lot of water was wasted.

The Codes and Ordinances Committee discussed other parks within the City and Mr. Nourse explained that if they see a spike they will send a letter and advise them, but they have no authority to follow. Councilor Keans asked how long have they been sending out letters. Mr. Nourse explained that they have been sending them for as long as he has been with the City.

Councilor Keans briefly discussed how the filling of pools is handled in the City.

Councilor Gray stated that to get the abatement, the leak needs to be fixed and the ordinance needs a little more work to make it a workable ordinance.

Councilor Lachapelle asked Mr. Nourse to draft an ordinance and bring it back to them for the February 6, 2014, meeting. Mr. Nourse stated that he would.

Councilor Keans asked if a monthly bill versus a three month billing cycle would help because they would find leaks faster. The committee discussed the topic briefly.

Councilor Lachapelle and Mr. Nourse would like to see something in writing. Councilor Varney does not want to be too quick to shut off a resident's water. Mr. Nourse discussed adding language that a leak needs to be fixed within ninety days. He went on to explain that the Public Works Department is very good with working with the residents when there is a problem. Councilor Varney discussed this further. Mr. Nourse will put something together for the next meeting. Councilor Lachapelle stated they will talk about it at that time.

Councilor Keans asked about large users that are flat rate. Mr. Nourse explained that they do have this situation because there is a park that has multiple inputs and to have that changed they would have to go to a Magmeter and they are very expensive. Councilor Gray asked about having two meters with check valves to survey the situation. The committee discussed this further and Mr. Nourse explained that it is not that simple. He stated that the Magmeter has a cost of \$80,000. Councilor Gray would like more clarification on these expensive meters. Mr. Nourse tried to explain the issues with the check valve or the double check valves. He went on to explain that it is not as simple as one thinks when it comes to multiple feeds.

This item will be staying in committee to be discussed at the February 6, 2014, Codes and Ordinances meeting.

## **6. Ordinance on Grass Height**

Sheldon Perkins, Code Enforcement Officer, discussed the proposed ordinance that he had drafted pertaining to grass height, which came from the International Property Maintenance Code. Mr. Perkins explained that there is not an ordinance anywhere in the State that has a height ordinance. Councilor Lachapelle asked if other communities have adopted the International Code. Mr. Perkins stated yes, they have, and that when it comes to grass height it is left blank, leaving it up to the communities.

Mr. Perkins was familiar with the issue that sparked the discussion on this proposed ordinance. He explained that when he is notified of such complaints he is able to get the resident to comply by making contact with them. Councilor Lachapelle agreed that it is a softer approach when the City works with the residents. Mr. Perkins stated that they can be creative to resolve these types of issues and ninety-nine percent of the time it is proven effective. Councilor Varney noted that having Mr. Perkins as a Code Enforcement Officer might take care of the situation. The committee briefly discussed that there are elderly residents and others who might not be able to take care of the maintenance and this could be an issue.

Jackie Raab, resident, noted that she had spoken with the former City Manager, Gary Stenhouse, and he stated to her that there has always been something on the books regarding this matter and the Codes Department would always take care of it. She went on to state that most communities have this on the books and they just do not know it.

Ms. Raab felt that it was going to be an ongoing situation and she still wants a height limit. Mr. Perkins explained the International Code further.

Ms. Raab stated that the issue did get media coverage when it had been addressed on several news stations.

Councilor Varney reiterated that they not do anything and let Mr. Perkins address the issues with the current ordinance. Mr. Perkins agreed. Councilor Gray suggested that it stay in committee indefinitely. Councilor Lachapelle commented that it is dead in committee.

## **7. Amendment to Water Ordinance**

Councilor Lachapelle reviewed the water ordinance 17.4, which came from the prior UAB meeting with the Codes and Ordinances Committee, where they had made the change as it pertained to “well fails.” This item passed the UAB with a three-to-two vote. He thought that it should go to Attorney Wensley to make the changes and then brought to the full City Council.

The Codes and Ordinances Committee members discussed the changes that are being presented as it pertains to adding a section (B) to the current ordinance. Councilor Varney explained the change as it pertains to the word “fails.”

Councilor Keans debated that it should be connected with the sewer ordinance and that they should be parallel. Councilor Lauterborn was under the impression that this was a minor definition change for “well fails.” Councilor Keans did not feel that there was enough information for them to make a decision. Councilor Gray tried to explain the definition further in regards to the sewer, as well as water, where it could require a permit. Councilor Varney asked if it required a permit. Mr. Nourse said not through Public Works. The Codes and Ordinances Committee discussed parallel terminology further.

Councilor Lachapelle wanted to have the change sent to the full City Council. The committee further discussed keeping the issue in committee until the February 6, 2014 meeting. Councilor Gray discussed looking at this from a permit level [water or sewer] in regards to failure or the property being sold.

Councilor Keans did not feel that it read well by adding section (B) because of the definitions. Councilor Varney stated that the sewer ordinance is defined.

Councilor Lauterborn **MOVED** to add a section (B) to ordinance 17.4. Councilor Varney seconded the motion. The **MOTION CARRIED** by a four to one majority voice vote.

## **8. Finance Committee – Water Sewer Ordinance**

Councilor Lachapelle explained that this issue is the result of a water leak which the Salvation Army incurred and the request for the abatement went beyond the billing cycle.

Councilor Keans asked if the Utility Advisory Board has the power to override this in these situations. Councilor Lauterborn was under the impression the administration was not going to override the abatement because they wanted it clarified in the ordinance.

Councilor Varney explained that ordinance 17.20 A states that the abatement request needs to be made before the next billing cycle, and in the case of the Salvation Army it went on for several months due to a new administration taking over and not knowing there was a problem. Councilor Lachapelle discussed 17.20 A in reference to the City Manager taking action.

Councilor Keans suggested the ninety days billing cycle, in Chapter 17.20 A, could be waived if there was proof of an extra ordinary circumstance. Councilor Lauterborn agreed. Councilor Lachapelle discussed the waiving the ninety days under (B) and give it to the UAB. Councilor Keans and Councilor Lauterborn agreed. Councilor Varney asked that the ninety days be changed two billing cycles, making it one hundred and eighty days. Councilor Keans and Councilor Varney discussed the two billing cycles further.

The Codes and Ordinances Committee wanted the UAB to review 17.20, adding the two billing cycles, which is a one hundred and eighty day period. The Codes and Ordinances Committee will review again when they hear back from the UAB. This issue will stay in committee at this time.

## **9. Fireworks Discussion**

Councilor Lachapelle had no discussion regarding fireworks. The resident that had asked for the Codes and Ordinances Committee to look at this topic again had left prior to the time it was to be discussed on the agenda. The discussion died in committee.

## **10. Other**

No other topics where discussed

## **11. Adjournment**

Councilor Keans **MOVED** to **ADJOURN** the Committee meeting at 8:05 PM. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan  
Assistant City Clerk